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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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02-70767 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/57/L.56/Rev.1)

Draft resolution A/C.3/57/L.56/Rev.1: Extrajudicial, summary or arbitrary executions

1. **The Chairman** said that a recorded vote had been requested on a number of paragraphs of the draft resolution.

Third preambular paragraph

2. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, said he regretted the need for a recorded vote on the paragraph. It was appropriate and normal for draft resolutions to recall previous resolutions on the same topic.

3. **Mr. Roshdy** (Egypt), speaking in explanation of vote before the voting, recalled that, in accordance with the position of the Organization of the Islamic Conference (OIC), his delegation had opposed Commission on Human Rights resolution 2002/36. His delegation's position was that it would not take note of resolutions which it had voted against, and he would therefore vote against the third preambular paragraph.

4. **Mr. Andrabi** (Pakistan) recalled that his delegation, on behalf of the Organization of the Islamic Conference (OIC), had opposed Commission on Human Rights resolution 2002/36 because the resolution made a reference to sexual orientation, a notion which had not been debated or accepted by OIC. His delegation was of the opinion that the Special Rapporteur had overstepped her mandate and would therefore vote against the paragraph.

5. *At the request of the delegations of Egypt and Pakistan, a recorded vote was taken on the third preambular paragraph.*

In favour:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Barbados, Belarus, Belgium, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Cambodia, Cameroon, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Hungary, Iceland, India, Ireland, Italy, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Against:

Bahrain, Bangladesh, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Indonesia, Iran (Islamic Republic of), Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Myanmar, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, United Arab Emirates, Yemen.

Abstaining:

Algeria, Antigua and Barbuda, Azerbaijan, Belize, Benin, Brunei Darussalam, Burkina Faso, Cape Verde, Congo, Dominica, Ethiopia, Gabon, Gambia, Ghana, Israel, Jamaica, Kenya, Lesotho, Malawi, Marshall Islands, Morocco, Nepal, Nigeria, Papua New Guinea, Philippines, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Singapore, South Africa, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

6. *The third preambular paragraph was adopted by 87 votes to 24, with 35 abstentions.*

Paragraph 6

7. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, pointed out that Egypt had not voted against Commission on Human Rights resolution 2002/36, because it was not a member of the Commission. Deletion of paragraph 6 would eliminate aspects which the sponsors wished to highlight, and he

recalled that it was normal for the Special Rapporteur to draw attention to issues requiring action by Governments. Mention of sexual orientation was not an attempt to impose new standards or values but to be inclusive and call on States to investigate all killings, whatever their motivation.

8. **Mr. Begg** (New Zealand) expressed full support for the Special Rapporteur and reiterated his delegation's concern at the continuation of extrajudicial executions and impunity for their perpetrators. Failure by States to investigate such crimes amounted to tacit endorsement of them. He looked forward to the next report of the Special Rapporteur and commended her for raising an issue which needed to be debated by the General Assembly. He called on all delegations which were committed to the elimination of extrajudicial killings to follow his delegation's example and vote in favour of paragraph 6.

9. **Mr. Laurin** (Canada) said that, although there was a new reference to sexual orientation, it was important to stress the obligation of States to investigate all killings, whatever their motivation, in order to determine if they were extrajudicial. Failure to do so would grant impunity to their authors and encourage such acts. That issue fell within the mandate of the Special Rapporteur, as confirmed by the General Assembly by consensus. Failure to adopt the paragraph owing to concerns over the use of the term "sexual orientation" would imply approval of killings based on sexual orientation and would also mean deleting important references to other killings about which there was a consensus. The paragraph should be retained.

10. **Mr. Roshdy** (Egypt), speaking in explanation of vote in response to the representative of Finland, said that although Egypt was not a member of the Commission on Human Rights, the Organization of the Islamic Conference (OIC), of which it was a member, had opposed Commission resolution 2002/36. With regard to the statement by the representative of Canada, he expressed concern not only at the reference to sexual orientation but also at the elements in the last two lines of the paragraph. The text should avoid lumping together all kinds of killings and extrajudicial executions. It should focus only on the latter, and his delegation would vote against the paragraph.

11. **Mr. Andrabi** (Pakistan) said the language of the text was too broad and dealt with numerous crimes other than extrajudicial executions, which were already dealt with through other mechanisms. Referring to killings rather than extrajudicial executions changed the nature of the text. Furthermore, his delegation, like OIC, could not vote to accept concepts which had not been debated and agreed to by OIC as a whole. The Special Rapporteur had overstepped her mandate, and his delegation would oppose the paragraph.

12. **Ms. Al Haj Ali** (Syrian Arab Republic) noted that the content of paragraph 6 was controversial; for that reason and in solidarity with OIC, her delegation would vote against the paragraph.

13. **Ms. Mohamed Ahmed** (Sudan) said that the language of paragraph 6 introduced many new elements — including sexual orientation, which had not been included in General Assembly resolution 55/111 — and blurred the distinction between killings and executions. Her delegation would oppose the paragraph.

14. **Ms. Astanah** (Malaysia) said her delegation had requested a recorded vote on paragraph 6. It opposed many of the elements listed in the paragraph, which for example blurred the distinction between killings and executions and weakened the impact of the resolution. As it had done in the Commission on Human Rights, it would oppose the paragraph.

15. **Mr. Alaei** (Islamic Republic of Iran) said that attempts to legitimize the notion of sexual orientation would hamper the implementation of human-rights instruments by States and special mechanisms, and was unacceptable in the absence of a full and transparent debate on the issue by OIC. Such references were superfluous and not helpful and could give rise to mistrust in international relations. Furthermore, many of the elements listed in the paragraph went beyond the mandate of the Special Rapporteur. His delegation would vote against the paragraph.

16. **Mr. Yagob** (Libyan Arab Jamahiriya) said his delegation found some elements of paragraph 6 unacceptable. It would oppose the paragraph, as it had in the Commission on Human Rights.

17. **Mr. Zeidan** (Lebanon) said his delegation opposed all violations of the right to life but felt that the inclusion of the term "sexual orientation" was an uncalled-for provocation, and it would therefore oppose the paragraph.

18. *A recorded vote was taken on paragraph 6.*

In favour:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mauritius, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Against:

Algeria, Bahrain, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Ethiopia, Gambia, Indonesia, Iran (Islamic Republic of), Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Morocco, Myanmar, Nepal, Oman. Pakistan, Qatar, Saudi Arabia, Singapore, Sudan, Syrian Arab Republic, Togo, Tunisia, United Arab Emirates, Yemen.

Abstaining:

Azerbaijan, Bangladesh, Belarus, Bhutan, Botswana, Burkina Faso, Cambodia, Congo, Côte d'Ivoire, Gabon, Haiti, India, Israel, Lesotho, Malawi, Marshall Islands, Namibia, Nigeria, Papua New Guinea, Russian Federation, Sierra Leone, South Africa, Swaziland, Turkey, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

19. *Paragraph 6 was adopted by 92 votes to 34, with 28 abstentions.*

Paragraph 11

20. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, said that they regretted the need for a recorded vote. The sponsors had deliberately used neutral language rather than language such as "*Welcomes*" or "*Notes with appreciation*".

21. **Mr. Roshdy** (Egypt), speaking in explanation of vote before the voting, said his delegation would have been prepared to support the paragraph if the sponsors had added language recalling the need for the Special Rapporteur to restrict herself to the terms of her mandate; regrettably, that language had not been added and his delegation would oppose the paragraph.

22. *A recorded vote was taken on paragraph 11.*

In favour:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mauritius, Mexico, Monaco, Mongolia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia.

Against:

Algeria, Bahrain, Bangladesh, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Gambia, Iran (Islamic Republic of), Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Morocco, Myanmar, Pakistan, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Togo, Tunisia, Uganda, United Arab Emirates, United States of America, Yemen.

Abstaining:

Bahamas, Belize, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Congo, Côte d'Ivoire, Gabon, Ghana, Haiti, India, Indonesia, Israel, Jordan, Kenya, Lebanon, Lesotho, Malawi, Marshall Islands, Namibia, Oman, Papua New Guinea, Russian Federation, Sierra Leone, Singapore, South Africa, Swaziland, Turkey, Zambia, Zimbabwe.

23. *Paragraph 11 was adopted by 91 votes to 28, with 33 abstentions.*

24. **Ms. Zack** (United States of America), speaking in explanation of vote, emphasized that it was important for the Special Rapporteur to stay within her mandate. The credibility of the system of special rapporteurs depended on scrupulous observance of the mandate and the willingness of Governments to cooperate.

25. **Mr. Alaei** (Islamic Republic of Iran) said that the Special Rapporteur should comply strictly with her mandate from the Commission on Human Rights and should refrain from including other crimes. His delegation had felt that there was a need to mention observance of the mandate in that paragraph.

Paragraph 12

26. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, said that the paragraph consisted of an exact quote from Commission on Human Rights resolution 2001/45, which had been adopted by consensus, and should be retained.

27. **Ms. Astanah** (Malaysia), supported by **Mr. Roshdy** (Egypt), said it was regrettable that the concerns of a number of delegations could not be reflected. They would have preferred an exhaustive description of the parameters of the mandate of the Special Rapporteur, which would have eliminated the need to look beyond the draft resolution to find that information. Those delegations would vote against retention of the paragraph.

28. **Mr. Andrabi** (Pakistan) said the paragraph failed to mention the resolutions establishing the Special Rapporteur's mandate or to describe it. His delegation opposed retention of the paragraph because it did not strengthen the resolution.

29. **Ms. Mohamed Ahmed** (Sudan) said that, while she recognized that paragraph 11 contained agreed language from previous resolutions, her delegation associated itself with the statements of the United States and Malaysia regarding the mandate of the Special Rapporteur. The language proposed by OIC would have been more inclusive. Therefore, her delegation would vote against retention.

30. **Ms. Al Haj Ali** (Syrian Arab Republic) said that the concerns of a number of delegations had not been met, which would lead to future problems. Therefore, her delegation would vote against retaining the paragraph.

31. *A recorded vote was taken on paragraph 12.*

In favour:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Barbados, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Mongolia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Against:

Algeria, Bahrain, Bangladesh, Benin, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Gambia, Indonesia, Iran (Islamic Republic of), Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Morocco, Myanmar, Pakistan, Philippines, Qatar, Saudi Arabia, Singapore, Sudan, Syrian Arab Republic, Togo, Tunisia, United Arab Emirates, Yemen.

Abstaining:

Azerbaijan, Belize, Bhutan, Botswana, Burkina Faso, Cambodia, Congo, Eritrea, Ethiopia, Gabon, Ghana, Haiti, India, Israel, Jordan, Lesotho, Malawi, Namibia, Oman, Papua New Guinea, Russian Federation, Saint Lucia Saint Vincent and the Grenadines, Sierra Leone, South Africa, Swaziland, Turkey, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

32. *Paragraph 12 was adopted by 89 votes to 33, with 31 abstentions.*

Paragraph 18

33. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, said that paragraph 18 reflected agreed language. It was not saying that the death penalty was illegal, but reminding Governments that they must be mindful of their obligations under international human-rights instruments. Deletion of the paragraph would send out a strange signal.

34. **Ms. Astanah** (Malaysia), supported by **Mr. Roshdy** (Egypt), said that the paragraph singled out countries which had the death penalty, which was the wrong message to send. Her delegation would therefore vote against its retention.

35. **Mr. Andrabi** (Pakistan) said that his delegation had always opposed selectivity in the implementation of human-rights norms. Paragraph 18 changed the focus of the draft resolution, which should be extrajudicial, summary or arbitrary executions and not the death penalty. Therefore, his delegation would oppose retention of the paragraph.

36. **Mr. Alaei** (Islamic Republic of Iran) said that the linkage should not be drawn between extrajudicial, summary and arbitrary executions and capital punishment. The paragraph implied that Governments which maintained the death penalty had immature legal systems. Therefore, his delegation would vote against retention of the paragraph.

37. **Ms. Al Haj Ali** (Syrian Arab Republic) said that her delegation would vote against the paragraph because of its selectivity.

38. **Ms. Mohamed Ahmed** (Sudan) said that the Committee should refuse to practice selectivity in addressing human-rights issues, and therefore her delegation would vote against retention of paragraph 18, although it agreed that Governments should bear all safeguards in mind.

39. **Mr. Sinaga** (Indonesia) said that a paragraph addressing the death penalty did not belong in the draft resolution, and therefore his delegation would vote against it.

40. **Mr. Zeidan** (Lebanon) said his delegation felt that inclusion of the paragraph was likely to send a strange signal, but because of its humane intent, he would abstain.

41. **Mr. Yagob** (Libyan Arab Jamahiriya) said that the views of some countries regarding the death penalty should not be imposed on others. His delegation would therefore vote against retention of the paragraph.

42. *A recorded vote was taken on paragraph 18.*

In favour:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Barbados, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mauritius, Mexico, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Against:

Algeria, Bahrain, Bangladesh, Benin, Brunei Darussalam, Cambodia, China, Comoros, Democratic People's Republic of Korea, Egypt, Gambia, Indonesia, Iran (Islamic Republic of), Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Sierra Leone, Singapore, Sudan, Syrian

Arab Republic, Uganda, United Arab Emirates, United States of America, Yemen, Zimbabwe.

Abstaining:

Antigua and Barbuda, Azerbaijan, Bahamas, Belize, Bhutan, Botswana, Burkina Faso, Congo, Dominica, Eritrea, Ethiopia, Gabon, Ghana, Haiti, India, Israel, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Lebanon, Lesotho, Malawi, Marshall Islands, Mauritania, Mongolia, Morocco, Namibia, Nepal, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, South Africa, Swaziland, Thailand, Tunisia, United Republic of Tanzania, Zambia.

43. *Paragraph 18 was retained by 77 votes to 34, with 39 abstentions.*

44. **Mr. Alaei** (Islamic Republic of Iran), speaking in explanation of vote, said that his delegation would have preferred to see the paragraph improved rather than deleted.

Paragraph 22

45. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, said that it was important to retain the paragraph, which called for an interim report in two years, because of the need to discuss the matter further.

46. **Mr. Roshdy** (Egypt) said that his delegation would vote against retention of the paragraph, even though it was mainly procedural, because of the ongoing disagreement over the definition of extrajudicial executions.

47. *A recorded vote was taken on paragraph 22.*

In favour:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Ireland, Italy, Jamaica, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Monaco, Mongolia, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Against:

Bahrain, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Iran (Islamic Republic of), Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Pakistan, Philippines, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Uganda, United Arab Emirates, United States of America, Yemen.

Abstaining:

Algeria, Bangladesh, Belize, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Congo, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Haiti, Indonesia, Israel, Lebanon, Lesotho, Marshall Islands, Mauritania, Morocco, Myanmar, Nigeria, Oman, Papua New Guinea, Russian Federation, Sierra Leone, Singapore, South Africa, Swaziland, Tunisia, United Republic of Tanzania.

48. *Paragraph 22 was retained by 97 votes to 23, with 34 abstentions.*

Seventh preambular paragraph and paragraph 3

49. **Mr. Hällström** (Finland) said he regretted that one delegation had asked for a recorded vote on those paragraphs, as the link between the Rome Statute of the International Criminal Court and the subject of extrajudicial, summary or arbitrary executions was evident.

50. **Mr. Meyer** (Liechtenstein), supported by **Ms. Baardvik** (Norway), **Ms. Leyton** (Chile), **Mr. Moret** (France), **Mr. Begg** (New Zealand), **Ms. Groux** (Switzerland), **Ms. Ramírez** (Costa Rica), **Mr. Aguzzi** (Venezuela) and **Ms. Eskjær** (Denmark) on behalf of the European Union, said that an adequate reference to the Rome Statute was needed in the draft resolution because the crime of extrajudicial, summary or arbitrary executions fell under the jurisdiction of the

International Criminal Court both as a crime against humanity and as a war crime. The Rome Statute would provide a legal basis for criminalizing such executions internationally, in particular by providing an incentive to States to investigate and prosecute such executions in their domestic jurisdictions.

51. The paragraphs under consideration were based on consensus language from a draft resolution of the Sixth Committee adopted by consensus in the plenary Assembly, and on the draft resolution of the Third Committee on trafficking in women and girls, also adopted by consensus. The formulation was already a compromise for delegations like his own, which would have preferred stronger language referring to the International Criminal Court. His delegation supported the draft resolution as introduced and would not accept any further weakening of the text.

52. **Mr. Laurin** (Canada) said his delegation regretted that the United States was once again calling for a vote on reference to the International Criminal Court in a human-rights resolution. The references to the Court were factual, and acknowledged the historic significance of its establishment. Although paragraph 3 called on States to consider becoming parties to the Statute, the decision was left to each State. The paragraphs represented compromise language similar to that adopted two years earlier by consensus. The position of the United States on the International Criminal Court was well known. He urged that delegation to put its position on record by means of a statement, rather than calling for votes on important human-rights issues.

53. **Ms. Zack** (United States of America) said that the United States was committed to the struggle to end impunity and in particular the abhorrent practice of extrajudicial, summary or arbitrary executions. Nevertheless, her delegation had called for a recorded vote on the seventh preambular paragraph and paragraph 3 of the draft resolution based on what it believed were inappropriate references to the International Criminal Court. The reasons for her Government's opposition to the Rome Statute as adopted were well known. However, it did not seek to undermine the Court. It respected the right of States to become parties to the Rome Statute if they wished, and at the same time, its decision not to be a party also should be respected.

54. Her delegation had requested redrafting of the paragraphs to state facts, rather than the characterization of facts. While it appreciated the efforts made to meet its concerns, it believed the paragraphs as currently drafted should not be included in a thematic resolution of that nature.

55. **Mr. Roshdy** (Egypt) said that his delegation had been instructed to vote in favour of the International Criminal Court in all circumstances but that the seventh preambular paragraph of the draft resolution made a link between the Court and extrajudicial, summary or arbitrary executions. The draft resolution had blurred the distinction between extrajudicial executions and ordinary killings, and for that reason his delegation would abstain from the voting.

56. *A recorded vote was taken on the seventh preambular paragraph and paragraph 3.*

In favour:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Latvia, Lebanon, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and

Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

Algeria, Bahrain, Bangladesh, Bhutan, Brunei Darussalam, China, Comoros, Cuba, Egypt, Gabon, India, Indonesia, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Marshall Islands, Mauritania, Morocco, Myanmar, Nepal, Nicaragua, Pakistan, Qatar, Saudi Arabia, Swaziland, Tunisia, Uganda, United Arab Emirates, Yemen.

57. *The seventh preambular paragraph and paragraph 3 were adopted by 125 votes to 2, with 30 abstentions.*

Draft resolution A/C.3/57/L.56/Rev.1, as a whole

58. **Mr. Roshdy** (Egypt) drew attention to rule 89 of the rules of procedure and requested that the vote on the draft resolution should be carried out in accordance with that rule.

59. **Ms. Tobing-Klein** (Suriname) recalled that Suriname had suffered a number of setbacks since the 1980 coup d'état, including the arbitrary execution of 15 Surinamese citizens in 1982. Her delegation strongly condemned extrajudicial, summary or arbitrary executions and had not participated in the voting on the proposed amendments to the draft resolution because it opposed changing its formulation. She also pointed out that, although Surinamese legislation still provided for the death penalty, it had not been applied for more than 70 years.

60. Lastly, she observed that modern technology was transforming the world into a global village, and called on the peoples of the world to embrace the friendly village spirit and take care of each other.

61. **Ms. Leyton** (Chile) said she hoped that the draft resolution would be adopted by consensus. The international community must strengthen its existing human-rights mechanisms in order to protect those whose rights had been violated. She also hoped that the Special Rapporteur would be able to continue fulfilling her mandate.

62. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, said that the Union attached great importance to the draft resolution and was firmly committed to combating extrajudicial, summary or arbitrary executions. The Special Rapporteur should continue with her work, given that she had already played a significant role in raising awareness of that practice and had endeavoured to contribute to its elimination through her country visits. In addition, the reference to the historic significance of the establishment of the International Criminal Court was very important in the context of the draft resolution.

63. The European Union was aware of the concerns of other States and, in that regard, had demonstrated its flexibility in agreeing to the revised draft. She regretted that so many votes had been necessary, and recalled that, in the past, resolutions on the same subject had always been adopted by consensus.

64. The European Union had voted against all the proposed amendments to the draft resolution and encouraged all other delegations to vote in favour of its adoption.

65. **Mr. Andrabi** (Pakistan), speaking in explanation of vote before the voting, said that the previous votes on the draft resolution had clearly shown that the Committee was split on the issue. His delegation supported the request made by the representative of Egypt for a vote on the draft resolution as a whole.

66. **Ms. Astanah** (Malaysia) said that her delegation also wished to request a vote on the draft resolution as a whole. Owing to various objectionable elements contained therein, Malaysia would be unable to join the consensus on the draft resolution, which could have been strengthened by the proposed amendments. Unfortunately, that opportunity had been squandered and the text had become contentious.

67. **Mr. Roshdy** (Egypt) said that his delegation would be unable to join the consensus on the draft resolution as it opposed overburdening the text with irrelevant issues. However, instead of voting against the draft resolution, he would abstain in order to demonstrate Egypt's strong opposition to extrajudicial, summary or arbitrary executions. The participation of his delegation in the drafting of paragraph 13 was further evidence of its condemnation of that practice.

68. **Mr. Osmane** (Algeria) said that his delegation supported the spirit of the draft resolution but would

abstain from the vote on account of its controversial formulation.

69. **Mr. Zaidan** (Lebanon) said that his delegation would have preferred the draft resolution to be adopted by consensus, but the fact that the Special Rapporteur had overstepped her mandate meant that that would be impossible. Nevertheless, Lebanon did not wish to block consensus and would therefore abstain from the voting.

70. **Mr. Kadiri** (Morocco) said that he would abstain from the voting because certain elements of the draft resolution had exceeded its scope. The Special Rapporteur had not respected her mandate and he would have liked to see a specific reference to that mandate in the draft resolution.

71. He reiterated his delegation's unequivocal condemnation of extrajudicial, summary or arbitrary executions and pointed out that Morocco had taken all the necessary legal, administrative and judicial measures to combat that practice.

72. **Ms. Mohamed Ahmed** (Sudan) said that her delegation condemned the practice of extrajudicial executions and called for investigations into all such incidents. She regretted that the draft resolution could not be adopted by consensus and hoped that future consultations on the issue would be more inclusive. She believed that consensus had been at hand, but that the necessary flexibility and understanding on the part of the sponsors had been lacking. Her delegation would abstain from the voting.

73. **Mr. Yagob** (Libyan Arab Jamahiriya) said that his delegation opposed extrajudicial executions but felt that the draft resolution had certain weak points. It addressed extraneous issues such as the death penalty, which was a criminal-justice matter, not a human rights one. If the sponsors had been willing to take account of the concerns of other States relating to respect for different cultures and traditions, references to such controversial issues could have been omitted from the draft resolution. Furthermore, the mandate of the Special Rapporteur should be re-examined.

74. **Ms. Al Haj Ali** (Syrian Arab Republic) said that she agreed with the points made in paragraph 13 of the draft resolution but would abstain from the voting on account of the conflicting content of the text as a whole. She hoped that the concerns of all States would be taken into consideration in the future.

75. *A recorded vote was taken on draft resolution A/C.3/57/L.56/Rev.1 as a whole.*

In favour:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Ireland, Italy, Jamaica, Japan, Kazakhstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mauritius, Mexico, Monaco, Mongolia, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Against:

None.

Abstaining:

Algeria, Bahrain, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Comoros, Congo, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Ethiopia, Gambia, Indonesia, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mali, Marshall Islands, Mauritania, Morocco, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Somalia, Sudan, Syrian Arab Republic, Togo, Tunisia, Uganda, United Arab Emirates, Yemen.

76. *The draft resolution was adopted by 112 votes to none, with 48 abstentions.*

77. **Mr. Konfourou** (Mali) said that it was vital to combat extrajudicial executions and that his Government had taken all the necessary legal, administrative and judicial measures to do so. However, he had abstained from the voting for two reasons: First, as a member of the Organization of the Islamic Conference, Mali had supported that organization's common position. Secondly, he was not entirely satisfied with the wording of the second half of paragraph 17: he felt that it was inappropriate for sovereign States to be invited to "report to" the Special Rapporteur and would have preferred those words to be replaced by "cooperate with" or "inform". He hoped his comments would be taken into consideration in the future.

78. **Mr. Loh** Tuck Keat (Singapore), speaking in explanation of vote, said that his delegation strongly condemned extrajudicial, summary or arbitrary executions. It was therefore with deep regret that it had abstained from voting on draft resolution A/C.3/57/L.56/Rev.1. Special rapporteurs could play an important role in the promotion and protection of human rights, but in order to perform their roles constructively, it was imperative that they adhered to the strictest standards of professionalism. They should not seek to impose or promote selected agendas, and in the absence of an international consensus on issues, they should not take sides: to do otherwise would undermine the credibility of the Office. In recent years, however, departure from the established practices of professionalism by the Special Rapporteur on extrajudicial, summary or arbitrary executions had become more frequent. On issues regarding the death penalty and sexual orientation, the Special Rapporteur should not have moved ahead of international consensus. Equally disturbing to Singapore was the implicit encouragement that some Member States had given to the trend to deviate from established practices.

79. **Ms. Kapalata** (United Republic of Tanzania) said that her delegation had voted in favour of the draft resolution because it strongly opposed the abhorrent practices under discussion. However, it rejected any attempt to equate the death penalty, the prerogative of sovereign Governments, to extrajudicial, summary or arbitrary executions. It regretted the controversy over the adoption of the draft resolution and hoped that wording based on extensive consultations would lead to the adoption of similar resolutions by consensus in future.

80. **Mr. Ndiaye** (Senegal) said that Senegal had traditionally sponsored draft resolutions on extrajudicial, summary or arbitrary executions because of its objection to such executions, for which there was no justification.

81. Senegal wished it to be placed on record that the Organization of the Islamic Conference (OIC), of which Senegal was a member, had not requested a vote on the draft resolution as a whole. Nor had it requested separate votes on the various paragraphs. In fact, it was a single Member State that had called for such voting. Out of a sense of solidarity, Senegal had voted in favour of all the amendments proposed earlier by individual countries.

82. **Ms. Elisha** (Benin) said that Benin was proud of its human rights record, and had voted in favour of paragraph 6 because it believed that no form of extrajudicial, summary of arbitrary executions should be tolerated. On the other hand, her delegation had voted against paragraph 18 for various reasons, including the fact that the death penalty, although hardly ever carried out, had not been abolished in her country. In addition, as a member of OIC, Benin was sensitive to the arguments presented by its members.

83. Given the importance of the issue, Benin fervently hoped that every effort would be made to ensure that any future draft resolution on extrajudicial, summary or arbitrary executions would be adopted by consensus.

84. **Ms. Tobing-Klein** (Suriname) asked for it to be placed on record that Suriname was entirely satisfied with the work of the current Special Rapporteur on extrajudicial, summary or arbitrary executions.

85. **Mr. Andrabi** (Pakistan) said that, in spite of Pakistan's serious concerns, as reflected in the amendment it had proposed as a member of OIC and together with the group of like-minded countries, his delegation had abstained from voting on the draft resolution as a whole. In so doing, Pakistan intended to reaffirm its commitment to the cause of eliminating the practice of extrajudicial, summary or arbitrary executions, and its respect for the human rights mechanisms and the mandate of the Special Rapporteur as established by various resolutions.

86. Regrettably, for the first time, the Committee had been forced to take action on that important draft resolution by a split decision. The votes requested on the various paragraphs of the draft resolution might have set an unfortunate record in the Third Committee. The calling for such votes had eroded the moral strength of the draft resolution and served no one's interest. Pakistan had hoped that the sponsors would have endeavoured to achieve consensus, taking into account the constructive proposals made by OIC and the group of like-minded countries. The intention of those proposals had been to strengthen the draft resolution and to reaffirm the undivided commitment of the international community to work for the elimination of those abhorrent crimes. Although consensus could not be achieved, Pakistan was not disappointed. He cited the example of an earlier contentious and controversial resolution which, unlike previous years, had recently been adopted by consensus. It was evident that with the necessary will, a way could inevitably be found. He hoped that, through flexibility and reciprocal understanding of sensitivities, consensus could some day be reached.

87. **Mr. Roshdy** (Egypt) said that he wished to correct earlier statements made by the representative of Senegal. Firstly, he clarified that no delegation had claimed to be speaking on behalf of the Organization of the Islamic Conference (OIC) in calling for a vote. He explained that some delegations had simply been recalling past action taken by OIC in the Commission on Human Rights. Secondly, the representative of Senegal had also erred in stating that a single delegation had called for a vote on certain paragraphs. Judging from the number of statements made, it was clear that at least seven delegations had either requested a vote or had been in favour of such action. Thirdly, he noted that the representative of Senegal had attempted to speak on behalf of OIC, and therefore wished to remind him that the Sudan, as president of OIC, was the only delegation entitled to speak on its behalf.

88. Ever since the adoption of Economic and Social Council resolution 1989/65, on the subject of the current draft resolution, the General Assembly had been able to achieve consensus on successive resolutions. However, the 14 votes on various paragraphs of the draft had created a precedent which should give the members of the Committee food for thought. Egypt had been among the countries which had indicated during the early stages of negotiations that they would be unable to join a consensus on the draft resolution if certain references were retained and, indeed, those references had remained. Egypt, among others, wished to give a clear signal that cultural standardization, and the failure to respect cultural diversity, through the imposition of foreign norms and values, would be rejected.

89. Egypt would continue to participate in future negotiations to achieve consensus. In conclusion, he congratulated the sponsors of the draft resolution and urged them to take note of the explanations and points highlighted by various delegations, particularly with respect to the issue of extrajudicial executions.

90. **Ms. Astanah** (Malaysia) said that her delegation found it regrettable that the Committee could not reach consensus on such an important draft resolution, and one which had consistently garnered support. OIC and some like-minded countries had stood ready to negotiate until the last moment, but most of their concerns had not been reflected in the text by the sponsors. What was most surprising was that the proposals, which would have made the draft resolution a strong, focused and exhaustive one, were rejected by the sponsors. Malaysia sincerely hoped that, in future, there would be no proliferation of draft resolutions initiated by States which had no intention of submitting strong and focused resolutions on relevant topics, and subsequently jeopardizing possible consensus.

91. **Mr. Sinaga** (Indonesia) affirmed that there was general agreement that the draft resolution under discussion was highly controversial. The fact that no delegation had voted against the draft resolution showed that no Member State condoned extrajudicial, summary or arbitrary executions. However, certain elements, such as the death penalty, the International Criminal Court, and sexual orientation, had triggered much controversy. He pointed out that the voting pattern had shown rather narrow margins, and he therefore suggested that the main sponsors of the draft resolution should adopt greater flexibility and willingness in understanding the position of other members which might be in a difficult position to support new elements. He was confident that the adoption of such an approach would lead to the achievement of consensus in future.

92. **Mr. Hällström** (Finland), speaking on behalf of the sponsors, thanked all delegations for the interest

they had displayed. He wished to thank especially the members of OIC for their constructive attitude and their role as fair negotiating partners during consultations. He also recognized the United States delegation, the Chairman and the other sponsors, representing all geographic regions, for their active support during the process, notably the delegations which had been willing to compromise.

93. Draft resolution A/C.3/57/L.56/Rev.1 was comprehensive, contained stronger wording and had the support of more sponsors than ever before.

94. **Ms. Rajaonarivelo** (Madagascar) pointed out that, had her delegation been present for the vote on the amendment to paragraph 12 submitted by OIC in document A/C.3/57/L.87, it would have abstained, whereas it would have voted in favour of the third preambular paragraph of draft resolution A/C.3/57/L.56/Rev.1. Madagascar had been unable to sponsor that draft resolution. In the past, however, it had been one of the traditional sponsors in order to reaffirm its position on extrajudicial, summary or arbitrary executions.

95. **Mr. Ndiaye** (Senegal) said that the representative of Egypt had apparently experienced some problems with the interpretation of his earlier clarification. He stated categorically that he had not committed the errors which the representative of Egypt had attributed to him, and said that he believed an apology, in that regard, was due to him.

96. By way of clarification, he reiterated that, when the Sudan had submitted the amendments in document A/C.3/57/L.87 on behalf of OIC, Senegal, as a member of that body, had supported them all. Subsequently, some amendments to certain paragraphs had been proposed not by OIC but by individual States. Senegal had been a traditional supporter of similar resolutions in other forums and had again taken its stance against all forms of extrajudicial, summary or arbitrary executions, regardless of motive, including those cited in paragraph 6 of draft resolution A/C.3/57/L.56/Rev.1.

97. **Ms. Mohamed Ahmed** (Sudan), speaking on behalf of OIC, said that its member States wished to reiterate their strong commitment to the protection of the right to life of all persons under their jurisdiction, and their objection to any form of extrajudicial, summary or arbitrary executions in law or in practice. She thanked the delegation of Finland, acting on behalf of the sponsors, for the very constructive manner in which the negotiations had been conducted. She also thanked the Chairman for his involvement in the process.

98. In the firm belief that understanding and cooperation among all delegations and groups would yield results, she joined previous speakers in expressing the hope that the sponsors would lead future negotiations with a view to adoption by consensus. In document A/C.3/57/L.87 the members of OIC had proposed three constructive, neutral and objective paragraphs as amendments which would have helped all delegations to reach a consensus, especially since they were almost the same as those contained in draft resolution A/C.3/57/L.56/Rev.1. In conclusion, she congratulated the sponsors on the adoption of the draft resolution, which would give added impetus for the conduct of serious negotiations aimed at consensus next time.

99. **Mr. Roshdy** (Egypt) said his delegation's reaction to the statement made by the representative of Senegal had been based on the English interpretation. He accepted the further clarification offered by the representative of Senegal.

Oral draft decision

100. **The Chairman** suggested that the Committee should recommend to the General Assembly that it should take note of the following documents: report of the Secretary-General on the protection of migrants (document A/57/134); report of the Secretary-General on the role and achievement of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights (A/57/277); report of the Secretary-General on human rights and cultural diversity (A/57/311); report of the Secretary-General on human rights and unilateral coercive measures (A/57/371); report of the Secretary-General on the strengthening of the United Nations in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity (A/57/385); report of the Secretary-General on the Subregional Centre for Human Rights and Democracy in Central Africa (A/57/394); note by the Secretary-General transmitting the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/57/138); note by the Secretary-General transmitting the report of the Special Representative on human

rights defenders (A/57/182); and note by the Secretary-General transmitting the report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/57/357).

101. *It was so decided.*

The meeting rose at 12.40 p.m.